

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC DEMETRIUS HOUSTON,

Petitioner,

Case No. 2:23-CV-10747

v.

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

PEOPLE OF THE STATE
OF MICHIGAN,

Respondent.

_____ /

**OPINION AND ORDER RE-ASSIGNING PETITION FOR A WRIT OF
HABEAS CORPUS AS A COMPANION CASE TO CASE # 2:23-CV-10729,
DIRECTING THE CLERK OF THE COURT TO RE-FILE THE
PLEADINGS IN THIS CASE UNDER CASE DOCKET # 2:23-CV-10729,
AND DISMISSING AS DUPLICATIVE THE PETITION FOR WRIT OF
HABEAS CORPUS**

This matter is before the Court on a *pro se* petition for a writ of habeas corpus brought by Eric Demetrius Houston, (“petitioner”), pursuant to 28 U.S.C. § 2254, in which he challenges his conviction out of the Cass County Circuit Court for carjacking, armed robbery, conspiracy to commit armed robbery, conspiracy to commit carjacking, and felony-firearm.

Petitioner previously filed a petition for a writ of habeas corpus before Judge Stephen J. Murphy, III, which challenged the same conviction. The petition remains pending before Judge Murphy. *Houston v. People of the State of Michigan*, No. 2:23-cv-10729. No decision has been rendered in that case.

Petitioner now filed the instant petition, in which he again seeks habeas relief from the conviction that he challenged in the petition before Judge Murphy.

For the reasons stated below, the Court orders that petitioner's application for a writ of habeas corpus be re-assigned to Judge Murphy as a companion case to petitioner's previously filed habeas petition. The Court will further order that the pleadings filed in this case be re-filed by the Clerk of the Court under Case Docket # 2:23-CV-10729. The Court dismisses the current petition as duplicative of the previously filed habeas application.

Eastern District of Michigan Local Rule 83.11 governs the re-assignment of companion cases, stating that "[c]ompanion cases are those in which it appears that: (i) substantially similar evidence will be offered at trial, or (ii) the same or related parties are present, and the cases arise out of the same transaction or occurrence." U.S. Dist. Ct. Rules, E.D. Mich. LR 83.11(b)(7). *See also Sims-Eiland v. Detroit Bd. of Educ.*, 184 F.R.D. 268, 269, n. 1 (E.D. Mich. 1999). Additionally, U.S. Dist. Ct. Rules, E.D. Mich. LR 83.11(b)(5) states that: "Successive habeas corpus petitions challenging the same conviction or sentence regardless of grounds asserted shall be assigned to the Judge to whom the original petition was assigned or to the Judge who is appointed to fill the vacancy of that Judge." In the interests of time and judicial economy, petitioner's two habeas applications should be consolidated into one

action pursuant to Fed. R. Civ. P. 42. *See Bernal v. Helman*, 958 F. Supp. 349, 351-52 (N.D. Ill. 1997).

The Court will also dismiss the current petition as duplicative of the previously filed habeas petition. A suit is duplicative, and thus subject to dismissal, if the claims, parties, and available relief do not significantly differ between the two actions. *See Barapind v. Reno*, 72 F. Supp. 2d 1132, 1145 (E.D. Cal. 1999)(internal citations omitted). Petitioner's current habeas petition is subject to dismissal as being duplicative of his first habeas petition, because both cases seek the same relief. *Id.*; *see also Davis v. U.S. Parole Com'n*, 870 F. 2d 657 (Table), No. 1989 WL 25837, *1 (6th Cir. Mar. 7, 1989)(district court can properly dismiss a habeas petition as being duplicative of a pending habeas petition, where the district court finds that the petition is essentially the same as the earlier petition); *Nye v. Booker*, No. 07-CV-12890, 2007 WL 2318750, *1 (E.D. Mich. Aug. 9, 2007)(same).

IT IS HEREBY ORDERED THAT:

(1) The petition is dismissed as duplicative.

(2) the Clerk of the Court shall close Case # 2:23-CV-10747 and re-assign this case to Judge Stephen J. Murphy, III of the United States District Court for the Eastern District of Michigan as a companion case to *Houston v. People of the State of Michigan*, U.S.D.C. No. 2:23-CV-10729.

(3) the Clerk of Court shall re-file in Case Docket # 2:23-10729, docket entry 1 from Case Docket # 2:23-10747.

Dated: April 2, 2023

s/Gershwin A. Drain

GERSHWIN A. DRAIN
UNITED STATES DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, April 3, 2023, by electronic and/or ordinary mail.

s/Teresa McGovern
Case Manager